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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,037	12/29/2000	Frank Liebenow	450.317US1	8768
24333	7590	05/23/2005	EXAMINER	
GATEWAY, INC.			LE, KAREN L	
ATTN: SCOTT CHARLES RICHARDSON 610 GATEWAY DRIVE MAIL DROP Y-04 N. SIOUX CITY, SD 57049			ART UNIT	PAPER NUMBER
2642				
DATE MAILED: 05/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/752,037	LIEBENOW, FRANK
	<b>Examiner</b>	<b>Art Unit</b>
	Karen L. Le	2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 December 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-54 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

1. This action is in response to applicant's response filed on September 22, 2004. Claims 1-54, are now pending in the present application. **This action is made final.**

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7, 9-14, 18, 20-29, 31-39, 41, and 44-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Novak (U. S. 4,266,098).

Regarding claims 1, 9, 10, 20, 22-23 Novak teaches a method, a computer readable medium, of handling a call from a caller to a communication device, the method comprising:

Receiving the call (Col. 1, lines 49-50), determining if the communication device is in a privacy mode (Col. 1, lines 50-56. The privacy mode is on when the answering device 4 is on. The privacy mode is off when the answering device 4 is off, and if the communication device is in the privacy mode, completing the call if a privacy mode code is entered by the caller (Col. 2, lines 2-22).

If the communication device is in the privacy mode, providing a privacy mode message including a selected privacy override code to the caller (Col. 1, lines 53-56).

Regarding claims 2, 11, 21, 24, 26, 33, and 38, Novak further teaches if the communication device is in the privacy mode, routing the call to a message system if no privacy mode code is entered by the caller (Col. 4, lines 31-32).

Regarding claims 3, 14, 29, and 34, Novak further teaches the privacy mode is selected by a user of the communication device (Col. 2, lines 57-61).

Regarding claims 7, 12-13, 18, and 41, Novak further teaches a privacy mode message selected by a user of the communication device (Col. 3, lines 1-3) and adapted to be provided to the caller prior to completing the call (Col. 1, lines 46-56) and the privacy mode code selected by the user of the communication device (Col. 2, lines 61-68).

Regarding claims 25, 31-32, 35-37 and 39, Novak further teaches a system for handling a call from a caller to a user of a communication device comprising:

a data entry device capable of receiving input to cause the communication device to enter a privacy mode, a memory capable of storing a privacy mode message, the privacy mode message including a selected privacy override code adapted to be provided to the caller prior to completing the call to the user, and a receiver capable of completing the call to the user if a privacy mode code is entered by the caller, a transmitter capable of completing the call to the user if the communication device is in the privacy mode and the privacy mode code is entered by the caller (Col. 1, lines 45- Col. 2, lines 15).

Regarding claim 27, Novak further teaches the data entry device is a telephone keypad (Col. 1, lines 58-63).

Regarding claims 28, Novak further teaches the privacy mode code comprises at least one keystroke from the data entry device (Col. 2, lines 1-6).

Regarding claims 44, Novak further teaches if the communication device is in the privacy mode, passing the call to a voice messaging system if the privacy mode code is not entered by the caller, the voice messaging system being capable of recording a message spoken by the caller making the call (Col. 1, lines 46-56).

Regarding claims 45-48, Novak further teaches if the communication device is in the privacy mode, blocking completion of the call until the privacy mode code is entered. If the communication device is in the privacy mode preventing the communication device from producing an incoming call signal if the privacy mode code is not entered by the caller (Col. 1, lines 18-19 and 46-56).

Regarding claims 49 and 50, Novak further teaches establishing for the communications device a normal mode of operation and the privacy mode of operation. Normal mode of operation is characterized by producing an incoming call signal upon receipt of the call, and the privacy mode is characterized by producing the incoming call signal only if the caller has entered the privacy mode code (Col. 1, lines 13-15)

Regarding claims 51, Novak further teaches if the communication device is in the privacy mode, announcing the privacy mode code to the caller (Col. 1, lines 53-56).

Regarding claims 52, Novak further teaches the step of providing a privacy mode message including a selected privacy override code to the caller further comprises announcing the privacy code to the caller (Col. 1, lines 53-56).

Regarding claims 53, Novak further teaches the step of receiving a spoken command from a user of the communication device to place the communication device in the privacy mode.

Regarding claims 54, Novak further teaches if the communication device is in the privacy mode, preventing the communication device from producing an incoming call signal if the privacy mode code is not entered by the caller while providing information regarding the incoming call through a display on the communication device (Col. 2, lines 47-52 and Col. 3, lines 13).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4-6, 8,15-17, 19, 30, 40, 42-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak (U. S. 4,266,098) in view of Patsiokas et al. (U. S. 4,941,203).

Regarding claims 4, 15, 30, and 43, Novak does not teach communication device is one of a cellular telephone and personal digital assistant. However, Patsiokas teaches communication device is one of a cellular telephone and personal digital assistant (Abstract, lines 1-2). Patsiokas

teaches call screening mode in a radio communication system includes a base station and a plurality of remote units. If a caller enters an override code, the system establishes voice communication between the caller and the called remote unit. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Patsiokas' system to Novak's system to provide privacy mode in a radio system.

Regarding claims 5 and 16, Novak does not teach the method is performed by one of a base station and a switch. However, Patsiokas teaches the method is performed by one of a base station and a switch (Col. 1, lines 45-51). Patsiokas teaches call screening mode in a radio communication system includes a base station and a plurality of remote units. If caller enters an override code, the system establishes voice communication between the caller and the called remote unit. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Patsiokas' system to Novak's system to provide privacy mode that is performed by one of a base station and a switch.

Regarding claims 6, 8, 17, 19, 40 and 42, Novak does not teach receiving a request from the communication device to place the communication device in the privacy and does not teach receiving a request from the communication device to place the communication device out of the privacy mode. However, Patsiokas teaches receiving a request from the communication device to place the communication device in the privacy and receiving a request from the communication device to place the communication device out of the privacy mode (Col. 1, lines 52-53). Patsiokas teaches a mean for selecting a particular communication or operating mode. Thus, it

would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Patsiokas' system to Novak's system to provide a mean for selecting mode.

***Response to Arguments***

6. Applicant's arguments filed on September 22, 2005 have been fully considered but they are not persuasive.

Applicant argues that Novak does not teach his system has more than one mode, and nothing indicates that the Novak system has more than one "mode". Examiner respectfully disagrees. Novak teaches (Col. 2, lines 45-46, lines 15-32 and Col. 3, lines 9-11, lines 18-24 and lines 26-29) that the caller's call was not acceptable (privacy mode on) at certain times by connecting (Fig. 1) answering device 4, converter 5, processor 6, memory 7 and display 8 to answering telephone 3 or (in Fig. 2) wired clock 10 to processor 6 to set condition upon which calls would be accepted at certain times only. Novak teaches the caller's call was acceptable (privacy mode off) at certain times by disconnecting (Fig. 1) device 4, 5, 6, 7 and 8 to answering telephone 3, or (Fig. 2) unwired clock 10 to processor 6. Thus, Novak does disclose whether a communication is in a privacy mode.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Or faxed to:

Hand-delivered responses should be brought to  
Crystal Park II, Sixth Floor (Receptionist)  
2121 Crystal Drive  
Arlington, VA 22202

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Le whose telephone number is 703-308-4998. The examiner can normally be reached on Monday - Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (703) 305-4731. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4750.

Karen Le  
KLL  
May 16, 2005

  
AHMAD MATAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600